

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Patrick Browne	Team: Team # 6	CCRB Case #: 201310095	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 10/26/2013 11:53 PM	Location of Incident: East 138th Street and Willis Avenue; 40th Precinct stationhouse	Precinct: 40	18 Mo. SOL 4/26/2015	EO SOL 4/26/2015	
Date/Time CV Reported Mon, 10/28/2013 9:45 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 10/28/2013 9:45 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Declan Ludington	14327	953018	PBBX
2. Officers			
3. SGT Kandou Worley	05477	945113	040 PCT
4. POM Joel Ramirez	22697	953293	040 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Declan Ludington	Force: PO Declan Ludington struck § 87(2)(b) with a baton at East 138th Street and Willis Avenue in the Bronx.	
B.POM Declan Ludington	Force: PO Declan Ludington used physical force against § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.	
C.POM Joel Ramirez	Force: PO Joel Ramirez struck § 87(2)(b) with a baton at East 138th Street and Willis Avenue in the Bronx.	
D.POM Joel Ramirez	Force: PO Joel Ramirez used physical force against § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.	
E. Officers	Force: Officers struck § 87(2)(b) with batons at East 138th Street and Willis Avenue in the Bronx.	
F. Officers	Force: Officers used physical force against § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.	
G.POM Declan Ludington	Force: PO Declan Ludington used a chokehold against § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.	
H. Officers	Discourtesy: Officers spoke discourteously to § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.	
I.POM Declan Ludington	Off. Language: PO Declan Ludington made remarks to § 87(2)(b) based upon race at East 138th Street and Willis Avenue in the Bronx.	

Officer(s)	Allegation	Investigator Recommendation
J.POM Declan Ludington	Discourtesy: PO Declan Ludington spoke discourteously to § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.	
K.POM Joel Ramirez	Discourtesy: PO Joel Ramirez spoke discourteously to § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.	
L.POM Declan Ludington	Force: PO Declan Ludington used physical force against § 87(2)(b) at the 40th Precinct stationhouse.	
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		

Case Summary

On October 28, 2013, § 87(2)(b) called the CCRB and filed this complaint on behalf of her son, § 87(2)(b) § 87(2)(b) did not witness the incident.

At approximately 11:35 p.m. on October 26, 2013, § 87(2)(b) was arrested on the northeast corner of East 138th Street and Willis Avenue in the Bronx, resulting in the following allegations:

- **Allegation A—Force: PO Declan Ludington struck § 87(2)(b) with a baton at East 138th Street and Willis Avenue in the Bronx.**
- **Allegation B—Force: PO Declan Ludington used physical force against § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- **Allegation C—Force: PO Joel Ramirez struck § 87(2)(b) with a baton at East 138th Street and Willis Avenue in the Bronx.**
- **Allegation D—Force: PO Joel Ramirez used physical force against § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- **Allegation E—Force: Officers struck § 87(2)(b) with batons at East 138th Street and Willis Avenue in the Bronx.**
- **Allegation F—Force: Officers used physical force against § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.**
- **Allegation H—Discourtesy: Officers spoke discourteously to § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- **Allegation G—Force: PO Declan Ludington used a chokehold against § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.**
- **Allegation J—Discourtesy: PO Declan Ludington spoke discourteously to § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.**
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
- **Allegation I—Offensive Language: PO Declan Ludington made remarks to § 87(2)(b) based upon race at East 138th Street and Willis Avenue in the Bronx.**
- **Allegation K—Discourtesy: PO Joel Ramirez spoke discourteously to § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.**

§ 87(2)(g)

- **Allegation L—Force: PO Declan Ludington used physical force against § 87(2)(b) at the 40th Precinct stationhouse.**

§ 87(2)(g)

- § 87(4-b) § 87(2)(g)

This case was originally assigned to Inv. Amarylis Rivera. However, due to her departure from the CCRB, the case was reassigned to Inv. Patrick Browne on October 8, 2014. Given § 87(2)(b) § 87(2)(b)'s arrest, the case was deemed ineligible for mediation and was, therefore, investigated.

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- *At the time of the incident, § 87(2)(b) was a § 87(2)(b)-old black male who stood 6'0", weighed 170 pounds, and had brown hair and brown eyes.*
- § 87(2)(b)

CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on November 6, 2013 (encl. 5A-N) and provided a phone statement on October 30, 2014 (encl. 7A). At around 11:35 p.m. on October 26, 2013, § 87(2)(b) and his friends, § 87(2)(b) and § 87(2)(b) were at an outdoor party near the Moore NYCHA housing complex in the Bronx. However, they quickly decided to leave because a group of about twenty-eight people began fighting near the corner of East 138th Street and Willis Avenue. § 87(2)(b) was initially unaware of any police presence.

As § 87(2)(b) walked towards the fight, § 87(2)(b) walked after her and told her that it was not safe. However, as he approached the crowd, § 87(2)(b) punched § 87(2)(b) in the face, causing his glasses to fall off. Other unidentified civilians then began striking him as well. § 87(2)(b) who is legally blind, was unable to see who had punched him and started wildly swinging his arms in an attempt to defend himself. Several of his punches connected with individuals whom he

did not see, but whom he later determined to be a police officer—identified through investigation as PO Declan Ludington of Patrol Borough Bronx. § 87(2)(b) then ran out across the street.

Following the incident, § 87(2)(b) informed § 87(2)(b) that as he ran, an officer struck § 87(2)(b) once on his back with a baton. Although § 87(2)(b) did not observe this himself, he believed he felt the strike and that it caused slight bleeding on his back. Nevertheless, within seconds PO Ludington wrapped his arms around him from one side and slammed him to the ground so that the left side of § 87(2)(b)'s head first made contact with the ground. It was at this time that three additional officers—one of whom was identified through investigation as PO Joel Ramirez of the 40th Precinct and the other two of whom remain unidentified—simultaneously grabbed him. Given how close they were, § 87(2)(b) was able to see that they were the police, so he pleaded that he did not know he had struck an officer. § 87(2)(b) exerted no resistance.

After turning him face down on the ground, all four officers punched, kicked, and struck § 87(2)(b) with batons. After eight minutes, PO Ludington successfully handcuffed him, but all four officers continued to punch and kick him. § 87(2)(b) maintained that he was punched at least nine times on the right and middle sides of his face, and whenever he would turn to tell the officers that he could not see and did not know that it was a police officer he had struck, the officers punched him directly in his face with closed fists. § 87(2)(b) was kicked a total of twelve times in his mid-section and the right side of his body. § 87(2)(b) reiterated his explanation at least twelve times as to why he had struck PO Ludington. § 87(2)(b) was kicked approximately three times on the left side of his head. As a result of the kicking, § 87(2)(b) did not resist, but merely shifted from side to side as a result of the blows and the pain. § 87(2)(b) could not describe any specific officer's actions during the struggle.

Once § 87(2)(b) was placed in the van, he again tried to explain that he did not intend to hit an officer. However, PO Ludington grabbed § 87(2)(b)'s throat with one hand—though § 87(2)(b) was still able to speak and breathe—and repeatedly stated, “You hit me you savage,” and “I could have killed you, you fucking savage, you punched me in the face you dumb bitch.” Meanwhile, PO Ramirez and other officers told § 87(2)(b) to “shut the fuck up.”

Two minutes after entering the van, they arrived at the 40th Precinct. As they escorted him inside, he firmly placed his feet on the ground and pushed backwards to slow down. Because § 87(2)(b) continued to do this when PO Ludington escorted him into a restroom, PO Ludington kicked § 87(2)(b) in the middle of his back, causing him to limp. § 87(2)(b) was crying and agitated throughout most of his arrest, but once he calmed down, PO Ludington gave § 87(2)(b) two sodas and released him with a desk appearance ticket. On October 27, 2013, § 87(2)(b) went to § 87(2)(b) where he was treated for back pain and skin abrasions, though he did not know specifically how he received those injuries.

Photographs of Injuries

§ 87(2)(b) provided photographs of his injuries depicting a several inch long abrasion on his lower right back (encl. 5E), a small bump on the back of his left ear (encl. 5F), and a small red mark on his left hand (encl. 5G).

Statements to Medical Personnel

During his triage evaluation at § 87(2)(b) at § 87(2)(b), § 87(2)(b) stated that he was fighting with another kid around 10:30 p.m. the night prior when the police tackled him, slammed him to the ground, and hit his back with a stick. He displayed

multiple abrasions on his back and right hip, as well as swelling at the back of his left ear. All of these injuries caused him pain.

During an evaluation by a social worker, § 87(2)(b) stated that while at a party the night prior, a fight broke out and he attempted to leave but was caught in the scuffle and arrested. However, even after being handcuffed, officers continued to strike him in the head and face multiple times. He also reported that when he arrived at the 40th Precinct, he was choked by an officer.

Witness: § 87(2)(b)

- § 87(2)(b) is the mother or § 87(2)(b) witnessed part of § 87(2)(b)'s arrest, and brought him home from the 40th Precinct after he was released.
- § 87(2)(b)'s pedigree and employment information are unknown.

§ 87(2)(b) provided a brief phone statement on July 15, 2014. On October 26, 2013, § 87(2)(b) was in her apartment, located on the § 87(2)(b) § 87(2)(b), when she looked out her window and observed a group of adolescents arguing on the street. Amidst the group, § 87(2)(b) witnessed an unidentified civilian punch § 87(2)(b) causing him to lose his glasses. § 87(2)(b) defended himself by swinging his fists. PO Ludington approached § 87(2)(b) and grabbed § 87(2)(b) from behind, wrapped his arm around his neck and pulled him backwards. § 87(2)(b) then went outside to find multiple officers "beating" § 87(2)(b) who was handcuffed. Her son, § 87(2)(b) was also handcuffed at the time. Other civilians were calling out from across the street that § 87(2)(b) was deaf and was unable to see, but the officer continued to strike him. § 87(2)(b) and § 87(2)(b) were then taken to the 40th Precinct stationhouse, so § 87(2)(b) followed. At the stationhouse, she observed that § 87(2)(b) had bruises on this face and was holding onto his ribs because of the pain. § 87(2)(b) subsequently took § 87(2)(b) home.

Attempts to Contact Civilians

Due to the lack of detail in § 87(2)(b)'s statement, a follow up call was placed on August 22, 2014. However, an unidentified female answered and quickly hung up. A second call was immediately placed to the same number, but it went straight to voicemail and a message was left requesting a call back. On August 27, 2014, another call was placed to § 87(2)(b) and a female Spanish speaker answered and similarly hung up. A second call was immediately placed to the same number, but it went to voicemail and a message was left requesting a call back. On August 25, 2014, a LexisNexis search for additional contact information for § 87(2)(b) returned no relevant results. On August 27, 2014, a letter was mailed to § 87(2)(b) address as listed, but it was returned to the CCRB via the United States Postal Service due to an "insufficient address."

As § 87(2)(b) was also arrested at the scene, a call was placed on July 15, 2014 to the number listed on his arrest report, which was also used to contact § 87(2)(b). Because § 87(2)(b) stated that § 87(2)(b) worked long hours and would not be readily available, § 87(2)(b) was asked to pass along the CCRB's number and have § 87(2)(b) call when he had time. On August 20, 2014 and August 27, 2014, respectively, two letters were mailed to § 87(2)(b) address as listed on his arrest report, but both were returned to the CCRB via the United States Postal Service due to an "insufficient address."

Furthermore, § 87(2)(b) stated that § 87(2)(b) and § 87(2)(b) witnessed his entire arrest. On July 15, 2014, a call was placed to § 87(2)(b)'s telephone number as provided by § 87(2)(b) but the call went straight to voicemail and a message was left requesting that § 87(2)(b) contact the CCRB. Four additional calls were placed to him on November 21, 2014,

November 24, 2014, November 25, 2014, and November 26, 2014, respectively, and each time a voicemail message was left requesting a call back. On November 21, 2014, a LexisNexis search for additional contact information for § 87(2)(b) returned no relevant results.

During his in person statement as well as during both follow up phone calls on July 15, 2014 and October 30, 2014, § 87(2)(b) stated that he did not have any contact information for § 87(2)(b) and could not obtain any. On November 21, 2014, a LexisNexis search for additional contact information for § 87(2)(b) returned no relevant results. As of the date of this report, none of the above witnesses have contacted the CCRB to provide further statements.

NYPD Statements

Subject Officer: PO DECLAN LUDINGTON

- *At the time of his interview, PO Ludington was a § 87(2)(b)-old white male who stood 5'4" tall, weighed 180 pounds, and had brown hair and green eyes.*
- *PO Ludington was assigned to impact, partnered with Sgt. Kandou Worley and PO Joel Ramirez. He worked from 7:30 p.m. on October 26, 2013 to 4:05 a.m. on October 27, 2013, was dressed in uniform, and was assigned to a marked sedan (#3923).*

Memo Book

PO Ludington recorded in his memo book (encl. 8A-C) that at 11:35 p.m. on October 26, 2013, a large group was fighting at 138th Street and Willis Avenue. § 87(2)(b) punched PO Ludington in the temple when he went to break up the fight, causing a large crowd to gather and disrupting others. § 87(2)(b) was fighting in the street and a razor was found on him. A call for additional units (10-85) was made to Housing and the 40th Precinct, who assisted in the arrest of both males. At 3:50 a.m. on October 27, 2013, the perpetrators were released with juvenile log § 87(2)(b) from Det. Ward.

Arrest Report

PO Ludington recorded on § 87(2)(b)'s arrest report (encl. 11A-C) that at 11:53 p.m. on October 26, 2013, § 87(2)(b) was observed fighting in a public street. While breaking up the fight, § 87(2)(b) struck PO Ludington in the face causing a small bruise to the side of his head. Upon further investigation, it was discovered that § 87(2)(b) was not aware that he was striking an officer.

Complain Report

The narrative on the complaint report (encl. 12A-B) was the exact same as on the arrest report.

CCRB Statement

PO Ludington was interviewed at the CCRB on November 13, 2014 (encl. 8D-F). At about 11:35 p.m. on October 26, 2013, PO Ludington saw a large group of at least twenty juveniles yelling and acting disorderly in the middle of the street near East 138th Street and Willis Avenue in the Bronx. At the time, PO Ludington was inside the 40th Precinct stationhouse, which is less than one block from that location, so he and other officers responded to the scene.

When he arrived, PO Ludington saw two unidentified males, neither of whom was § 87(2)(b) striking § 87(2)(b). PO Ludington immediately intervened, telling them to break it up and pulling one of the males off of § 87(2)(b) before reaching for the second. As he grabbed the

other male, § 87(2)(b) struck him with a closed fist in the left temple, which resulted in a bruise. § 87(2)(b) was only two feet away at the time and was yelling unspecified statements.

Having been attacked, PO Ludington immediately removed his asp and struck § 87(2)(b). At the time of the strike, PO Ludington and § 87(2)(b) were standing face to face, though he did not know with what part of § 87(2)(b)'s body he made contact or how many times he struck him. When he was struck, § 87(2)(b) continued to shout, wildly flail his arms, and kick his legs. In order to subdue § 87(2)(b), PO Ludington then grabbed him by the torso and forced him to the ground, though he did not recall how long it took to do so or in what position § 87(2)(b) was placed on the ground. At that point, PO Ramirez and at least three other unidentified officers assisted PO Ludington in subduing § 87(2)(b).

PO Ludington did not recall exactly how long it took to handcuff § 87(2)(b) but maintained that due to his continued twisting, flailing, and kicking, the ground struggle was prolonged. Officers were struck as a result of § 87(2)(b)'s resistance, but PO Ludington could not describe how. When asked if he ever kicked § 87(2)(b) or punched him with a closed fist, PO Ludington would not answer directly, merely shaking his head as though he did not know. Only after the third request did he state that he did not recall doing so or seeing any other officer do so. PO Ludington did not recall if any other officers had their asps drawn or struck § 87(2)(b) with asps. PO Ludington could not describe the specific force used to effect his arrest, but acknowledged that some force in addition to his asp strikes was used to overcome § 87(2)(b)'s resistance.

Apart from ordering § 87(2)(b) to stop resisting, PO Ludington did not recall making any additional statements such as "I could have killed you, you fucking savage, you punched me in the face you dumb bitch." He did not recall if he called § 87(2)(b) a "savage," or if he told or heard any other officer tell § 87(2)(b) to "shut the fuck up."

After the handcuffs were secured, PO Ludington and other officers placed § 87(2)(b) into a nearby police van. At no point did PO Ludington grab § 87(2)(b)'s throat or neck. § 87(2)(b) was then brought to the 40th Precinct stationhouse and lodged. At some point, PO Ludington physically escorted § 87(2)(b) into a bathroom, though he did not kick § 87(2)(b) from behind. During § 87(2)(b)'s arrest processing, PO Ludington brought him two sodas and ultimately released him with a desk appearance ticket. § 87(2)(b) explained to PO Ludington that he had lost his glasses and could not see that he was an officer because he is legally blind. Prior to discussing this at the stationhouse, PO Ludington had no knowledge of § 87(2)(b)'s vision problem.

PO Ludington did not recall seeing any visible injuries on § 87(2)(b) following this incident. However, he believed that § 87(2)(b) stated at the stationhouse that his leg hurt. PO Ludington had no knowledge of the injuries displayed in § 87(2)(b)'s CCRB photographs, including an abrasion to his lower back and bump on his ear, and he did not believe any action taken by any officer would have caused such injuries.

Subject Officer: PO JOEL RAMIREZ

- *At the time of his interview, PO Ramirez was a § 87(2)(b)-old Hispanic male who stood 5'10" tall, weighed 195 pounds, and had brown hair and brown eyes.*
- *PO Ramirez worked the same tour and assignment as PO Ludington and Sgt. Worley.*

Memo Book

PO Ramirez did not have any entries in his memo book (encl. 9A-B) regarding this incident. At 9:55 p.m. on October 26, 2013, he was at the 41th Precinct stationhouse to get gas. At 4:05 a.m. on October 27, 2013, he ended his tour.

CCRB Statement

PO Ramirez was interviewed at the CCRB on November 13, 2014 (encl. 9C-D). At about 11:35 p.m. on October 26, 2013, PO Ramirez received a radio call for assistance at East 138th Street and Willis Avenue in the Bronx. At the time, PO Ramirez was at the 40th Precinct stationhouse, which is only one block from that location, so he was aware that the call referred to a large crowd of at least twenty disorderly civilians that had convened.

PO Ramirez immediately drove to the location in his vehicle with Sgt. Worley and, along with ten to fifteen other officers, gave verbal commands for the civilians to disperse. At some point, a fight involving § 87(2)(b) broke out, but by the time PO Ramirez saw what was happening, he only witnessed PO Ludington and other officers struggling with § 87(2)(b) on the ground. PO Ramirez did not see how the struggle began or how § 87(2)(b) was taken to the ground. Although he could not clearly describe what force was used to subdue § 87(2)(b) PO Ramirez maintained that § 87(2)(b) exerted substantial resistance by kicking and punching the officers around him. With § 87(2)(b) positioned on his back, PO Ramirez immediately assisted by grabbing his arms and forcing them towards his stomach in order to make it easier to handcuff him. However, § 87(2)(b) continued to resist by kicking and pulling his arms away. As a result, § 87(2)(b) struck the officers around him, though he did not strike PO Ramirez.

At no point did PO Ramirez kick or punch § 87(2)(b) with a closed fist, nor did he see any other officer do so. At no point did he remove his baton or strike § 87(2)(b) with a baton. PO Ramirez did not witness or become aware of any officers removing their batons or striking § 87(2)(b) with them. PO Ramirez did not take or witness any other officer take any action that could have caused the injuries as shown in § 87(2)(b)'s CCRB photographs. In addition to the above, PO Ramirez could not recall any additional force that was used against § 87(2)(b). After a prolonged struggle, § 87(2)(b) was successfully handcuffed and placed in a nearby van by the apprehending officers.

At no point did PO Ramirez see any officer grab § 87(2)(b) by the throat. While seated in the van, § 87(2)(b) apologized and explained that he did not know they were officers because he could not see without his glasses. PO Ramirez did not recall any other officers' responses but admitted to stating "shut the hell up" or something similar because he did not want to hear § 87(2)(b)'s excuses. PO Ramirez did not use or hear any other officer use the word "fuck," nor did he hear PO Ludington call § 87(2)(b) a "savage," or state, "I could have killed you, you fucking savage, you punched me in the face you dumb bitch," or tell him to "shut the fuck up."

PO Ramirez was among the officers who transported § 87(2)(b) back to the 40th Precinct stationhouse. After helping escort him into the front entrance of the building, PO Ramirez left without entering and saw no actions taken inside.

Witness Officer: SGT. KANDOU WORLEY

- *At the time of his interview, Sgt. Worley was a § 87(2)(b) -old black male who stood 6'2" tall, weighed 190 pounds, and had black hair and brown eyes.*
- *Sgt. Worley worked the same tour and assignment as PO Ludington and PO Ramirez.*

Memo Book

Sgt. Worley did not have any entries in his memo book (encl. 10A-C) related to this incident. At 9:55 p.m. on October 26, 2013, he was at the 41st Precinct getting gas for his vehicle. At 3:50 a.m. on October 27, 2013, he began administrative duty processing arrests.

CCRB Statement

Sgt. Worley was interviewed at the CCRB on November 6, 2014 (encl. 10D-E). On the night of October 26, 2013, there was a fight among civilians, so Sgt. Worley, PO Ludington, and PO Ramirez intervened to break it up. At some point when PO Ludington grabbed § 87(2)(b) to restrain him, § 87(2)(b) struck PO Ludington. Because Sgt. Worley was also intervening in the crowd, he did not witness the struggle between PO Ludington and § 87(2)(b) but only heard about it after the civilians were restrained. Additionally, following his arrest, § 87(2)(b) repeatedly stated that he did not know PO Ludington was an officer. Sgt. Worley saw § 87(2)(b)'s glasses after his apprehension and noticed that they were relatively thick.

Sgt. Worley could not recall any details of § 87(2)(b)'s physical apprehension, including whether or not he participated in it or whether any other civilians were arrested. However, Sgt. Worley maintained that he did not punch or see any other officer punch § 87(2)(b) in the face, such as with a closed fist. Sgt. Worley did not recall if he or any other officer had his baton out at the time, but stated that he did not strike or see any other officer strike § 87(2)(b) with a baton. Sgt. Worley did not kick or see any other officer kick § 87(2)(b) while he was on the ground. At no point did Sgt. Worley hear any officer call § 87(2)(b) a "savage" or a "dumb bitch," or tell § 87(2)(b) to "shut the fuck up."

Sgt. Worley did not recall if he transported § 87(2)(b) back to the stationhouse, but maintained that he never grabbed or saw any other officer grab § 87(2)(b) by the neck, nor did he kick or see any other officer kick § 87(2)(b) from behind in the stationhouse. Sgt. Worley did not recall seeing any injuries on § 87(2)(b).

EVENT Report for Incident

EVENT #D13102624664 (encl. 17A-E) showed that at 11:42 p.m. on October 26, 2013, assistance was called at East 138th Street and Willis Avenue in the Bronx by 40th Precinct sector I. Responding units included 0ES3A, 0ESU4, 40ST1, 40PP1, OES3T, and the Housing Captain.

Command Log

The 40th Precinct command log from October 26, 2013 (encl. 16A-H) indicated that § 87(2)(b)'s physical and mental condition appeared normal when brought into the stationhouse. At the same time that § 87(2)(b) and § 87(2)(b) were brought into the stationhouse, PO Serrano brought in two arrestees and PO Soltero brought in five arrestees.

Medical Records

§ 87(2)(b) was seen by a physician at § 87(2)(b) at § 87(2)(b). When seen by a physician, § 87(2)(b)'s vitals were stable and he was ambulating well. His head was normocephalic (normal sized) and atraumatic, with no neurological deficit. His ears,

nose, mouth, and throat were normal. He had a 7 cm by 2.5 cm superficial laceration on his lower back and a superficial abrasion on his left ear. § 87(2)(b) was diagnosed with skin abrasions on his left hand and lower back, as well as a bump on his left ear. He was prescribed topical Bacitracin for the abrasions and Ibuprofen for pain. It was noted that § 87(2)(b) had a history of mild mental retardation and is reportedly legally blind. He was discharged from the hospital at § 87(2)(b).

Vision Evaluation for § 87(2)(b)

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Disposition of Desk Appearance Ticket for Incident

- § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Status of Civil Proceedings

- Neither § 87(2)(b) nor § 87(2)(b) has filed a notice of claim with the City of New York as of August 1, 2014 with regard to the incident (encl. 20A).

Civilian's Criminal History

- § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b)
■ § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
■ § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Civilians' CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 3A).
- This is the first CCRB complaint filed by § 87(2)(b) (encl. 3B).

Subject Officers' CCRB Histories

- PO Ludington has been a member of the service for two years and there are no substantiated CCRB allegations against him (encl. 2A).
- PO Ramirez has been a member of the service for two years and there are no substantiated CCRB allegations against him (encl. 2B).
- Sgt. Worley has been a member of the service for seven years and there are no substantiated CCRB allegations against him (encl. 2C).

Conclusion

Identification of Subject Officers

§ 87(2)(b) alleged that the officer whom he accidentally punched was the one who initially tackled, punched, kicked, struck him with his baton, grabbed him by the throat, and called him a “savage” and a “dumb bitch.” It is undisputed that PO Ludington was the officer whom § 87(2)(b) struck and who subsequently took § 87(2)(b) to the ground. Furthermore, although § 87(2)(b) could not identify the officer who kicked him from behind into a bathroom at the 40th Precinct stationhouse, PO Ludington acknowledged that he was the officer who escorted § 87(2)(b) into the bathroom. § 87(2)(g)

§ 87(2)(b) also alleged that once on the ground, three other white male officers all joined PO Ludington in punching, kicking, and striking him with their batons, as well as telling him to “shut the fuck up.” § 87(2)(g)

Although § 87(2)(b) made the same allegations against two additional officers, he is legally blind and was not wearing his glasses at the time of the incident, so no photo array was conducted. Further, none of the officers who were interviewed could identify or describe them. § 87(2)(g)

Investigative Findings and Recommendations

Allegation A—Force: PO Declan Ludington struck § 87(2)(b) with a baton at East 138th Street and Willis Avenue in the Bronx.

Allegation B—Force: PO Declan Ludington used physical force against § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.

It is undisputed that after § 87(2)(b) punched PO Ludington, PO Ludington removed his baton and struck § 87(2)(b) at least once. However, § 87(2)(b) alleged that after being struck, PO Ludington grabbed his torso and slammed him to the ground so that his head first made contact with the pavement. § 87(2)(b) maintained that despite his attempts to explain that he had not intended to hit an officer and in the absence of any physical resistance, PO Ludington subsequently punched, kicked and struck him with his baton several more times before handcuffing him eight minutes later. § 87(2)(b) alleged that even after his handcuffs were secured, PO Ludington continued to strike him. § 87(2)(b) claimed that, in total, he was punched at least nine times on the right and middle sides of his face with closed fists, and was also kicked a total of twelve times in his mid-section and on the right side of his body. Medical records from the following day indicated that § 87(2)(b) had no injury to his head other than a small bump above his ear. Apart from superficial skin abrasions on his lower right back and left hand, there was no mention of any other bruising or trauma on the rest of his body.

PO Ludington acknowledged striking § 87(2)(b) with his baton at least once, though he did not know what part of his body he struck or if he struck him any additional times. Similarly, PO Ludington acknowledged grabbing § 87(2)(b) and taking him to the ground, but he did not recall any specific force he used once § 87(2)(b) was on the ground. PO Ludington maintained

that due to § 87(2)(b) flailing his arms and legs and twisting his body, it took a prolonged period of time to subdue and handcuff him.

Sgt. Worley did not recall any specific details of § 87(2)(b)'s apprehension. PO Ramirez stated that he did not see PO Ludington take § 87(2)(b) to the ground and, although he assisted in his apprehension, he did not recall any specific force used by PO Ludington against § 87(2)(b). However, he maintained that he did not see any officer punch, kick, or strike § 87(2)(b) with a baton. PO Ramirez corroborated that § 87(2)(b) resisted by punching and kicking at the officers. All officers maintained that they did not see or take any action that would have caused the abrasion to § 87(2)(b)'s back or the bump above his ear.

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation C—Force: PO Joel Ramirez struck § 87(2)(b) with a baton at East 138th Street and Willis Avenue in the Bronx.

Allegation D—Force: PO Joel Ramirez used physical force against § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.

§ 87(2)(b) alleged that despite exerting no resistance, PO Ramirez punched, kicked, and struck him with a baton. Conversely, PO Ramirez stated that upon seeing § 87(2)(b) PO Ludington, and other officers struggling on the ground, he immediately assisted by grabbing § 87(2)(b)'s arms and moving them into a position to be handcuffed. However, he maintained that at no point did he kick or punch § 87(2)(b) with a closed fist, nor did he ever remove his baton or strike § 87(2)(b) with it. Neither PO Ludington nor Sgt. Worley recalled any other officer's actions against § 87(2)(b) including whether they punched, kicked, or struck § 87(2)(b) with batons.

§ 87(2)(g)
[REDACTED]

Allegation E—Force: Officers struck § 87(2)(b) with batons at East 138th Street and Willis Avenue in the Bronx.

Allegation F—Force: Officers used physical force against § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.

Allegation H—Discourtesy: Officers spoke discourteously to § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.

§ 87(2)(b) alleged that in addition to PO Ludington and PO Ramirez, two other officers punched, kicked, and struck him with batons. Furthermore, he maintained that while in the van, those two officers also told him to “shut the fuck up.” None of the officers interviewed could identify any other officers involved and did not recall any specific actions taken by those officers, including punching § 87(2)(b) kicking him, striking him with batons, or telling him to “shut the fuck up.”

All officers interviewed reported that, given the large size and disorderly nature of the civilian crowd, numerous officers from several commands—including the 40th Precinct, the Patrol Borough, ESU, and PSA 7—responded to the location. However, no officer could provide any identifying information for the two other officers who physically apprehended § 87(2)(b) § 87(2)(g)

§ 87(2)(g)

Allegation G—Force: PO Declan Ludington used a chokehold against § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.

Allegation J—Discourtesy: PO Declan Ludington spoke discourteously to § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.

§ 87(2)(b) alleged that while he was seated in the van trying to explain that he did not mean to strike an officer, PO Ludington grabbed him from the front by the throat and stated multiple times, “You punched me in the face you dumb bitch.” He stated that despite the grab, he was still able to breathe and speak. § 87(2)(b) s medical records did not indicate that there was any injury to § 87(2)(b) s throat or neck.

Conversely, PO Ludington denied ever grabbing § 87(2)(b) by the throat, and did not recall making the aforementioned statement or using profanity while speaking to him. PO Ramirez denied seeing PO Ludington grab § 87(2)(b) by the throat, hearing him make the above statement, or hearing him use any profanity while speaking to § 87(2)(b) Sgt. Worley did not recall seeing or hearing any such allegations.

§ 87(2)(g)

Allegation I—Offensive Language: PO Declan Ludington made remarks to § 87(2)(b) based upon race at East 138th Street and Willis Avenue in the Bronx.

Allegation K—Discourtesy: PO Joel Ramirez spoke discourteously to § 87(2)(b) at East 138th Street and Willis Avenue in the Bronx.

§ 87(2)(b) alleged that around the time PO Ludington grabbed his throat, he also stated, “You hit me, you savage,” and “I could have killed you, fucking savage.” He further alleged that

following his arrest when he was trying to explain that he did not intend to hit an officer, PO Ramirez told him to “shut the fuck up.”

PO Ludington testified that did not recall making the aforementioned statement or calling § 87(2)(b) a “savage,” nor did he recall PO Ramirez telling § 87(2)(b) to “shut the fuck up.” PO Ramirez denied hearing PO Ludington call § 87(2)(b) a “savage,” and although he acknowledged telling § 87(2)(b) to “shut the hell up” after he was handcuffed in the van, he denied using the word “fuck.” Sgt. Worley did not hear any of these allegations.

An officer is required to speak courteously and respectfully to civilians and is prohibited from using disrespectful remarks regarding a person’s ethnicity or race. Patrol Guide Procedure 203-10 (encl. 0A-B) and Patrol Guide Procedure 203-09 (encl. 0C). Only when it is used to ensure a civilian’s cooperation in enforcing the law does discourteous language not constitute misconduct. *Police Department v. Dukes* (Apr. 26, 2000) (encl. 0D-L).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation L—Force: PO Declan Ludington used physical force against § 87(2)(b) at the 40th Precinct stationhouse.

§ 87(2)(b) alleged that while being taken into a bathroom at the 40th Precinct stationhouse, PO Ludington kicked him in the back from behind, causing him to limp. § 87(2)(b)’s medical records indicated that he was walking normally when admitted to the hospital. Conversely, PO Ludington denied kicking § 87(2)(b) into the bathroom while he escorted him there, and no other officers witnessed this.

§ 87(2)(g)
[REDACTED]

§ 87(4-b) § 87(2)(g)

[REDACTED]

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date